

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Brittall Environmental Corporation
A California Corporation
60 Hegenberger Loop
Oakland, CA 94621
(Alameda County)

EPA ID No. CAD982434037

Respondent.

Docket HWCA 20040597

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Brittall Environmental Corporation, a California Corporation (Respondent), enter into this Consent Order and agree as follows:

1. Respondent is a registered, hazardous waste transporter operating out of and with an office located at the following site: 60 Hegenberger Loop, Oakland in Alameda County, California (Site).

2. The Department inspected the Site on August 12, 2004.

3. The Department alleges the following violations:

3.1. The Respondent violated Health and Safety Code, section 25201(a) and California Code of Regulations title 22, section 66263.18 in that on or about and between January 14, 2002 and April 20, 2004, Respondent stored hazardous waste at a location without a permit or grant authorization from the Department, to wit:

Respondent held hazardous waste in excess of the 10-day transfer facility exemption at the Site. Respondent's manifests showed that the 10-day holding time was exceeded

for approximately 93 manifests ranging from 1 day to 26 days in excess of the allowable time frame as noted in the following tables:

Year 2002	Manifest	BEC Pick up date	Transporter 2	In excess of 10 days
1	98549105	1/2/2002	1/17/2002	4
2	98549187	1/3/2002	1/30/2002	16
3	21071060	1/4/2002	1/17/2002	3
4	98549186	1/10/2002	1/30/2002	10
5	98549162	1/11/2002	1/30/2002	9
6	98549185	1/16/2002	1/30/2002	3
7	98549184	1/18/2002	1/30/2002	2
8	21874738	1/24/2002	2/18/2002	15
9	21070975	1/30/2002	2/28/2002	18
10	98549039	3/26/2002	4/16/2002	11
11	21070828	3/28/2002	4/16/2002	9
2	21077881	4/5/2002	4/16/2002	1
13	21077882	4/5/2002	4/16/2002	1
14	21077871	5/1/2002	5/13/2002	1
15	21070826	5/23/2002	6/17/2002	15
16	21077873	5/29/2002	6/17/2002	9
17	21077903	6/4/2002	6/17/2002	3
18	21077869	6/5/2002	6/17/2002	2
19	21077932	6/5/2002	6/17/2002	2
20	21874449	6/18/2002	7/8/2002	10
21	21077897	6/19/2002	7/8/2002	9
22	21077914	6/19/2002	7/8/2002	9
23	21077955	6/19/2002	7/8/2002	9
24	21874427	6/20/2002	7/8/2002	8
25	21077874	6/24/2002	7/8/2002	4
26	21874409	7/9/2002	NA -T2 TSDF -8/8/02	20
27	21077887	7/23/2002	8/12/2002	10
28	21874453	7/30/2002	8/12/2002	3
29	21874441	8/1/2002	8/12/2002	1
30	21874445	8/1/2002	8/12/2002	1
31	21077953	8/1/2002	8/12/2002	1
32	21874436	8/1/2002	8/12/2002	1
33	21874452	8/2/2002	9/3/2002	22
34	21874421	9/18/2002	9/30/2002	1
35	21874723	9/27/2002	10/10/2002	3
36	21874714	10/10/2002	10/25/2002	4
37	21874420	10/16/2002	10/28/2002	1
38	21869151	12/16/2002	12/30/2002	4
39	21875037	12/16/2002	12/30/2002	4
40	21077921	12/17/2002	12/30/2002	3
41	21077951	12/17/2002	12/30/2002	3

Year 2003	Manifest	BEC Pick up date	Transporter 2	In Excess of 10 days
1	21071044	1/6/2003	1/27/2003	11
2	21077906	1/14/2003	1/27/2003	3
3	21070835	1/16/2003	2/18/2003	22
4	21874739	1/28/2003	2/18/2003	11
5	21869191	1/31/2003	2/18/2003	8
6	21874713	2/26/2003	3/17/2003	8
7	21070823	2/26/2003	3/17/2003	8
8	21869023	3/10/2003	3/21/2003	1
9	21868778	3/21/2003	4/15/2003	15
10	21070827	3/27/2003	4/15/2003	8
11	21874718	3/27/2003	4/15/2003	8
12	21869104	4/14/2003	4/28/2003	4
13	21869187	4/14/2003	5/20/2003	26
14	22356774	4/15/2003	4/28/2003	3
15	21869143	4/23/2003	5/14/2003	10
16	21868782	4/28/2003	5/14/2003	6
17	21869146	4/30/2003	5/14/2003	3
18	21869148	5/2/2003	5/14/2003	2
19	95781903	6/17/2003	7/2/2003	5
20	21875069	6/19/2003	7/2/2003	2
21	21869109	6/19/2003	7/2/2003	2
22	21869021	7/2/2003	7/15/2003	2
23	21869038	7/3/2003	7/15/2003	1
24	21875027	7/16/2003	8/1/2003	5
25	21874730	7/31/2003	8/18/2003	7
26	21868780	7/31/2003	8/18/2003	7
27	21869111	8/19/2003	9/8/2003	10
28	21869108	8/22/2003	9/8/2003	6
29	21869007	8/22/2003	9/8/2003	6
30	21874729	8/27/2003	9/12/2003	6
31	95781922	8/27/2003	9/08/2003	2
32	21869171	8/28/2003	9/12/2003	5
33	21869172	9/11/2003	10/6/2003	15
34	21869194	9/24/2003	10/06/2003	2
35	21869010	9/26/2003	10/08/2003	2
36	21868798	10/6/2003	10/23/2003	7
37	21869040	10/8/2003	10/30/2003	12
38	21869182	10/9/2003	10/28/2003	8
39	21869121	11/12/2003	11/26/2003	4
40	21869175	12/3/2003	12/29/2003	15
41	21875022	12/16/2003	12/31/2003	5
42	95781904	12/17/2003	12/31/2003	4
43	21875078	12/18/2003	12/31/2003	3
44	21875057	12/31/2003	01/26/2004	16
45	21874728	9/19/2003	10/06/2003	7

Year 2004	Manifest	BEC Pick up Date	Transporter 2	In Excess of 10 days
1	21869122	1/7/2004	1/26/2004	8
2	21875017	1/13/2004	1/26/2004	3
3	98549024	2/17/2004	3/19/2004	21
4	21875052	2/24/2004	3/29/2004	24
5	21875019	2/24/2004	3/19/2004	14
6	23031228	4/6/2004	4/20/2004	2
7	22872651	4/8/2004	4/20/2004	2

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code section 25187.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

8. Respondent shall comply with the following:

9.1. Effective immediately, Respondent shall comply with California Code of Regulations, title 22, section 66263.18 for purposes of operating under the transfer facility exemption or obtain a hazardous waste facility permit. During the normal course of transportation, Respondent shall not hold hazardous waste, in excess of 10 days.

9.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Ms. Patti Barni, Section Chief
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710.

9.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

9.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

9.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall

maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

9.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$10,620, of which \$ 7,261.00 is penalty and \$ 3,359.00 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Ms. Patti Barni, Section Chief
Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710.

To: Ms. Vivian Murai, Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806.

10.1. Respondent agrees to send Mr. Gary Britton and Mr. Bill Yates to California Compliance School, Modules I-IV. Enrollment in California Compliance School shall occur on or after August 15, 2006. Attendance must be completed and Respondent must submit Certificates of Satisfactory Completion for each employee issued by the California Compliance School to the Department by December 15, 2006. In recognition

of this educational investment, the penalty imposed by the Department has been reduced by \$5,000 if the employees specified above satisfactorily complete the specified modules by December 15, 2006. If Respondent fails to submit the certificates as required, the penalty of \$5,000 is due and payable on December 20, 2006.

10.2. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11. 5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 3/30/06

(Original signed by Gary Britton)

Mr. Gary Britton, President
Britton Environmental Corporation
Respondent

Dated: 4/7/06

(Original signed by Patti Barni)

Ms. Patti Barni
Statewide Compliance Division
Department of Toxic Substances Control